**IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA**

**Civil Writ Petition No.986 of 2006.**

**Date of decision: 08.11.2006**

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**Jyoti Rattan** ….**Petitioner**

**Versus**

**H.P. University & Another** ….**Respondents.**

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*Coram*

**The Hon'ble Mr.Justice V.K. Gupta,C.J.**

**The Hon'ble Mr.Justice Deepak Gupta,J.**

*Whether approved for reporting ?*[1]

**For the Petitioner:** **Mr.Neeraj Sharma, Advocate.**

**For Respondent No.1:** **Mr.V.D. Khidtta, Advocate.**

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**V.K. Gupta, C.J. (Oral)**

The petitioner was granted admission in the course of Bachelor of Computer Application (Ist Year Course) for the Academic Session 2005-2006. It is the admitted case of the respondents that she had secured this admission on her own merit, based on the fact that she had got 57.14% marks in the qualifying examination. The petitioner appeared in the Ist Year of BCA Course in the examination held in the year 2006 but her result was not declared by respondent No.1 because in the meantime respondent No.1 thought, after scrutiny of her record, that she had wrongly

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgement?***

been selected and admitted in the aforesaid course in as much as she having been placed in compartment in 10+2 examination, as per Clause No.1.4 of the Ordinances of the University she was not eligible for admission in this course. Despite the fact that the petitioner had appeared in the Ist Year Examination, on the aforesaid ground respondent No.1 did not declare her result of Ist Year Examination with the consequence that despite the 2nd Year classes having started in August, 2006 the petitioner was debarred and prevented from attending the classes of 2nd Year.

In the reply filed by respondent No.1 repeated reliance is placed upon Clause 1.4 of the Ordinances and repeatedly, in para after para respondent No.1 has been averring that Clause 3.7 of the Ordinances does not apply to the admissions in BCA Course and that this Clause (3.7) applies only for general admissions, implying thereby that the admissions to BCA Course are excluded from the purview of Clause 3.7 of the Ordinances.

A Division Bench of this Court vide judgment dated 27th December, 2005 rendered in CWP 1184 of 2005, while dealing with an exactly similar and identical fact situation and while confronted with the aforesaid Clause 1.4 of the Ordinances clearly held that because of the application of Clause 3.7 of the Ordinances even with respect to BCA Course, provisional admission is permissible to such

a candidate who was placed in compartment in 10+2 examination subject of course to the condition that he/she clears 10+2 examination within two chances and such event taking place, the provisional admission would stand regularized. It is the admitted case of respondent No.1 that the petitioner did clear her 10+2 compartment examination within two chances.

Judgment by the Division Bench in CWP 1184 of 2005 was pronounced on 27th December, 2005. In that case respondent No.1 herein was also respondent No.1 and was represented by the same learned counsel who is representing respondent No.1 in this petition. Despite the fact that the aforesaid pronouncement by the Division Bench in CWP 1184 of 2005 has become law of the land (as far as the State of Himachal Pradesh is concerned), respondent No.1 first and foremost caused a grave prejudice as well as injury to the petitioner by not declaring her result, in the process preventing her from joining the 2nd Year Course and secondly in the reply filed to this petition the respondents have once again raked up the issue relating to the non-applicability of Clause 3.7 (supra). We are convinced that on both counts respondent No.1 has not conducted itself appropriately and properly.

For the foregoing reasons this petition succeeds. The action of respondent No.1 in withholding the result of the petitioner is quashed

and set aside. Respondent No.1 is directed to declare the result of the petitioner before 4.00 P.M. tomorrow. If the petitioner passes the Ist Year Examination, she shall be admitted in the 2nd Year Course immediately and forthwith. If in the process there is any deficiency in the attendance etc. this short fall shall be made up by respondent No.1 by taking such appropriate steps as are required for this purpose.

Based upon the aforesaid observations and because of the fact that the petitioner has not only been harassed, injured as well as prejudiced, but has also been driven to this avoidable litigation, she is awarded costs of Rs.10,000/- which shall be paid to her by respondent No.1 within two weeks from today.

**CMP No.1557 of 2006.**

Infructuous.

**(V.K. Gupta)**
**Chief Justice.**

**November 8, 2006**
**(aks)**

**(Deepak Gupta)**
**Judge.**